



to AOR, and only 54 pet stores served as the pet store data base. Also, district attorneys representing each of the 26 cities, humane societies, and better business bureaus were contacted and asked to enumerate complaints they had received or actions they had taken related to pet stores selling sick puppies.

Results of the surveys include the following:

- Veterinarians responding to the questionnaire indicated that during 1988, 8,988 pet store puppies received treatment after purchase.

- The most common ailments among pet store-purchased puppies were upper respiratory disease and gastrointestinal parasitism.

- Of the puppies treated, 48.6% were identified as incubating a disease or sick at the time of purchase.

- Over half (52%) of the puppies treated incurred \$50-\$150 in treatment costs, and 26.7% of the puppies treated incurred \$151-\$300 in treatment costs.

- Although 51 of the 54 pet stores responding indicated that puppies were sold under warranty, approximately 39% of veterinarians responding to the survey noted that none of the costs for treating pet store purchased puppies were covered by warranties from pet stores.

- Puppies from out of state accounted for the single largest source of sick puppies—4,046 (45%) of the 8,988 sick puppies treated for illness by veterinarians.

- The pet shops surveyed noted that 69.8% of puppies sold are acquired from out-of-state breeders.

California Children, California Families: Educating Minority Students in California (April 1990) addresses ways in which California can reform and/or restructure its educational system to respond more effectively to the needs of its minority students. The report develops an academic profile of those schools principally serving minority students, examines factors contributing to the differences in achievement between low- and high-performing schools, addresses issues of resource allocation, and makes several policy recommendations for addressing some of the more critical issues highlighted by the study.

The report noted that gains have been made in the achievement of black and Hispanic students since the implementation of various educational reform efforts five years ago. However, there continues to be a persistent and significant gap between the performance of white and Asian students and the performance of black and Hispanic students in California public schools. The differ-

ences are extremely acute when comparing the performance of schools serving predominantly black and/or Hispanic students with schools serving predominantly white students.

Also, schools serving high percentages of black and Hispanic students have significantly larger average enrollments than schools serving high percentages of white students. This is particularly true for Hispanic students at all grade levels.

AOR noted that current statewide practice requires that fiscal data be collected using the school district as the unit of analysis rather than the individual school site. Therefore, it is not possible to determine whether actual resource differences exist among schools serving primarily black and Hispanic students as compared to schools serving primarily white students.

Finally, AOR found that no overwhelming quantitative data exist which demonstrate the factors contributing to the differences between the highest- and lowest-performing schools serving predominantly minority students.

As recommendations, AOR first suggested that policies for improving low-performing schools serving primarily black and Hispanic students should include reducing the size of the school unit. This could be accomplished either by designing smaller individual schools or adopting a "school within a school" concept.

AOR next recommended that expenditure data be collected so it is possible to determine per pupil expenditures by school site. The data to be collected should be standardized statewide, using expenditure categories which are easily understood by the public. The actual design of the school level data system should consider input from a group of local administrator and teacher groups. School personnel at the school site level should receive training and assistance from the school district in order to ensure that data collection is uniform and does not pose an excessive burden on site personnel.

Finally, AOR noted that continued investigation is needed to assist schools serving minority students in identifying the critical factors involved in making significant improvements in student performance. A number of projects designed to assist such schools are currently underway. Issues such as teacher collegiality, community support services, student participation levels, staff development, partnerships with private industry and institutions of higher education, decisionmaking models, and incentives for innovative strategies

should be considered when examining schools which are making significant improvements in minority student achievement.

SENATE OFFICE OF RESEARCH

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Established and directed by the Senate Committee on Rules, the Senate Office of Research (SOR) serves as the bipartisan, strategic research and planning unit for the Senate. SOR produces major policy reports, issue briefs, background information on legislation and, occasionally, sponsors symposia and conferences.

Any Senator or Senate committee may request SOR's research, briefing and consulting services. Resulting reports are not always released to the public.

MAJOR PROJECTS:

Regulation vs. Practice: A Review of the California Department of Food and Agriculture's Pesticide Registration Process (February 1990). SOR reviewed the California Department of Food and Agriculture's (CDFA) analysis of pesticide products registered for sale in 1987. The review indicates severe problems with the current registration process, with the following principal findings:

- numerous pesticide products lacking adequate warnings for consumers have been registered for sale in California;

- recommendations by CDFA's scientists questioning the safety of pesticide products have been repeatedly disregarded over the last four years, and CDFA scientists have accused non-scientists of altering documents, disregarding policies, and distorting legal mandates; and

- CDFA has adopted policies and practices circumventing regulatory requirements that require full testing for acute health effects of pesticides.

CDFA is charged with protecting Californians from the toxic properties of pesticide products. In order to accomplish this task, pesticides must be registered by CDFA before they may be sold in the state. SOR reviewed CDFA's registration of pesticide products between March and December 1987. This report documents that during this time twenty products were approved for sale without regard for the recommendations of CDFA scientists. This number represents 14% of the products evaluated by CDFA's Medical Toxicology Branch



during this period. The total number of pesticide products registered without regard to scientific recommendations, however, may represent a larger percentage depending on CDFA Registration Branch considerations of scientific reviews of other required studies (e.g., worker exposure studies, chemistry evaluation, microbiology studies, etc.).

SOR's report noted that in 1986, ten employees of CDFA's Medical Toxicology Branch protested inaction by various CDFA officials regarding their recommendations and questioned the Department's sense of "scientific ethics". In addition, the employees expressed concern regarding the loss of staff that may have resulted from "the direct and indirect manipulative influences of certain individuals in the Registration Branch over the professional scientific activities and decisions of those in the Medical Toxicology Branch."

The problem of scientific ethics outlined and attested to by various Department scientific staff appears to have grown worse over time. Nearly two years later, another memo cited continuing problems regarding science-based decisions. Also, a staff toxicologist raised the issue of "legal responsibility" and whether the Department had violated legal mandates. Finally, internal memos reflect the Department's difficulty in retaining capable scientific staff. Since 1986, more than fifteen scientists have left the Medical Toxicology Branch to accept positions outside CDFA. SOR concluded that the apparent loss of scientific integrity and autonomy in the decisionmaking process at CDFA has placed large numbers of Californians at risk from hundreds of pesticide products.

SOR recommended four specific actions:

(1) The legislature should adopt statutory language assuring that pesticides have completed a full scientific review prior to registration.

(2) The legislature should reorganize the state's pesticide registration process to provide for an independent public health review of pesticides.

(3) Congress should review a list of pesticide labels approved by the U.S. Environmental Protection Agency (EPA) which California scientists have found to contain insufficient warnings.

(4) Congress and the legislature should investigate other facets of the pesticide registration process at the CDFA and the EPA.

Advisory Bodies and Task Forces (February 1990). In response to a

request by Senator Robert Presley, the SOR prepared this briefing paper regarding the increasing number of bills creating advisory committees and task forces. Relying in part on a Little Hoover Commission study on a similar topic (see CRLR Vol. 9, No. 4 (Fall 1989) pp. 32-34 for background information), SOR responded to the following specific questions:

(1) Within state government, how many advisory groups and task forces exist which are established by statute and paid for from the general fund?

(2) How much do these advisory bodies cost?

(3) Why have these advisory groups proliferated in the past few years?

(4) Should the Senate adopt criteria to guide the creation, extension, deletion, reconstitution, or combination of advisory bodies?

SOR found that of the approximately 355 boards and commissions established by state statutes, about fifty are standing advisory committees which receive money from the general fund. Thirty of these committees are purely advisory; the rest are also partly administrative or partly regulatory. Approximately \$16 million from the general fund supports these fifty advisory and policy planning bodies.

In addition, many advisory bodies and task forces are not standing committees with general fund budgets. In the past three years, chaptered legislation has established about 75 new advisory bodies and task forces and has amended the duties or composition of an additional sixty. The costs of most of these bodies are absorbed by the department or office they were created to advise.

SOR suggested the following four possible reasons that new boards are created instead of directing existing boards or departments to undertake the study of a pressing issue: (1) the existing board lacks the credibility or the expertise to conduct a sound review or study; (2) the intransigence of the existing board or its appointing authority is one of the problems prompting the need for a new advisory body; (3) the sponsors of the legislation may not know about the existing board; and (4) the sponsors of the legislation are excluded from the existing board and want a way to express their point of view under an official banner.

SOR noted that the Assembly Ways and Means Committee employs a useful system to guide legislators who carry bills establishing pilot projects. The Committee insists that all pilot projects contain specific objectives, evaluation criteria, and a timetable for review. SOR

suggested that the Senate Appropriations Committee provide legislators with a similar set of criteria applying to all bills which propose to establish a new advisory committee, commission, or task force. Such criteria include the following:

- the intent section of the bill should explain why the issue in question merits review by a board, commission, task force, or other advisory body;

- the legislation should state who needs the advice, and there should be a demonstrated connection between the issue in question and the government entities that will receive the assistance of the new committee or task force;

- no new committee or task force should be approved if a current board or commission can carry on this review;

- newly formed advisory groups should comply with specific logistical guidelines;

- all legislation establishing new advisory bodies, boards, commissions, and task forces should contain strict conflict of interest provisions for each of its members;

- the legislation should include a provision directing appointing authorities to appoint persons reflecting the ethnic and cultural diversity of the state;

- the legislation should make clear the relationship between the new body and existing government units; and

- legislation establishing an advisory body or task force to review and report on a specific issue should include a date at which time the task force will terminate.

In addition to applying these criteria to new advisory bodies, SOR recommended that the Senate Appropriations Committee use these factors when a bill amending the composition, duties, or sunset date of an existing board or commission comes before it. Also, SOR recommended that the Legislative Analyst's Office or the Office of the Auditor General be directed to calendar a review of all boards and commissions over the next five years using the above criteria, and recommend reform legislation where needed.

A California Guide to Asbestos Laws and Regulations (March 1990) provides initial direction for those who want a more complete understanding of asbestos rules affecting California. It attempts to identify the laws and regulations specifically related to asbestos.

In July 1989, the U.S. Environmental Protection Agency (EPA) announced that it would phase in a near total ban on the manufacture, importation, and processing of asbestos-containing products. Also, new asbestos laws at the federal,



state, and local levels will soon be implemented to minimize the health risks associated with the inhalation of asbestos fibers. The end result will be that more employers will be regulated, worker protections will increase, and disclosure requirements will be toughened.

Currently in California, there are already 69 state code sections which cover a specific asbestos law. Furthermore, while the EPA issues the basic rules governing activities which may release asbestos fibers into the ambient air, it allows California's air pollution control districts to enforce stricter rules, creating significant regional differences in asbestos removal procedures. Additionally, some local governments have adopted ordinances which regulate the disclosure of asbestos materials by building owners well beyond current state standards.

The following is a sample of the asbestos-related laws and regulations currently affecting California:

-Occupational Safety and Health Standards. Both the federal government and California have adopted and enforce occupational safety and health standards which involve asbestos. The Federal Occupational Safety and Health Administration (OSHA) has promulgated asbestos standards for general industry (29 C.F.R. Part 1910.1001) and the construction industry (29 C.F.R. Part 1926.58). The OSHA standards are designed to protect employees from exposure to asbestos. Federal OSHA standards apply only to employers under its jurisdiction, which—in California—is generally limited to the maritime industry and federal installations and property.

California standards apply to employers in the private sector and state and local government where the state program, Cal-OSHA in the Division of Occupational Safety and Health (DOSH), has jurisdiction. Asbestos is one of the carcinogens regulated under California's Occupational Carcinogens Control Act of 1976 (Labor Code section 9000 *et seq.*). Further, California's asbestos standard is found in Title 8, section 5208 of the California Code of Regulations (CCR). Other Cal-OSHA asbestos-related rules include the Hazard Communication Standard, Title 8, section 5194 of the CCR. This act requires employers to inform workers about hazardous substances they encounter in the workplace.

-Employer Requirements in Asbestos-Related Work. California Labor Code section 6501.5 requires registration and other employer actions concerned

specifically with asbestos-related work. Implementing regulations are found in Title 8, section 341.6 of the CCR. For example, employers engaging in asbestos-related work over 100 square feet per job must register with DOSH prior to the start of work. Also, the employer, as well as the contractor and building owner, must make a good faith effort to determine if asbestos is present prior to the start of asbestos-related work in any building or structure.

-Asbestos Workers' Account. Labor Code section 4401 *et seq.* provides for advances on workers' compensation benefits to eligible workers suffering from asbestosis as a result of employment, pending determination of the responsible employer.

-Handling, Transport and Disposal. The EPA, under provisions of the Clean Air Act, regulates removal, demolition, transportation, and disposal activities involving asbestos. The EPA's regulation on asbestos is part of the National Emission Standards for Hazardous Air Pollutants and is found in 40 C.F.R. Part 61, Subpart M.

The EPA has delegated the administration and enforcement of its emission standards in California to about half of the state's 41 air pollution control districts. Many of these delegated districts have adopted asbestos emission regulations which are stricter than the EPA rules.

California's hazardous waste management laws and regulations cover asbestos, which is specified as hazardous waste in Title 22, section 66001 of the CCR. Also, key elements of the hazardous waste control statutes are found in Health and Safety Code section 25100 *et seq.* The regulations and statutes are very extensive and include requirements for generators, transporters, and facilities. They cover broad areas such as handling, packaging, labeling, notification, recordkeeping, fees, and taxes.

-Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). This act covers carcinogenic and reproductive toxic chemicals as listed by the Governor. Asbestos is included on the list. The act prohibits anyone in the course of doing business from knowingly discharging or releasing any of the listed chemicals in any way which may allow contamination of drinking water, and it prohibits anyone in the course of doing business from knowingly and intentionally exposing any individual to the listed chemicals without first giving clear and reasonable warning.

-Asbestos in Schools. Under the Asbestos Hazard Emergency Response

Act of 1986, the EPA regulates asbestos construction materials in public and private nonprofit schools, grades K-12. The EPA rules, contained in 40 C.F.R. Part 763, Subpart E, require each local education agency to monitor the condition of all asbestos-containing materials in schools and to take appropriate corrective measures to protect students and employees from exposure to asbestos.

Several state Education Code sections relate to asbestos in public schools, grades K-12. For example, school districts may receive financial aid for abatement work through the State Asbestos Abatement Fund (Education Code section 39619.9 *et seq.*).

-State Disclosure Laws for Building Owners. California Health and Safety Code section 25915 *et seq.* requires the owner of any public or private nonresidential building constructed prior to 1979 who has knowledge that there is asbestos-containing construction material in the building to disclose certain information about the material. Disclosure information must be presented to all employees and lessees within 15 days after the owner first receives information that asbestos-containing materials are present in the building.

-State Disclosure Laws for Contractors and Consultants. A number of state statutes place certain requirements on contractors/consultants, such as Business and Professions Code section 7058.5, which prohibits a person from advertising or promoting asbestos removal services unless that person is certified by the Contractors State License Board (CSLB) to do abatement work.

-State Consumer Law. CSLB is required to provide the public with information, upon request, about contracting for asbestos abatement work. CSLB distributes a booklet on asbestos as well as a list of contractors who are certified and registered to perform asbestos-related work (Business and Professions Code section 7058.8).

Expanding Access to Health Care for California's Uninsured Population (March 1990) examines the problem of the growing number of Californians without health insurance and discusses options the state has for expanding access to health care for this growing population. SOR's report states that over 75% of the American population has private health insurance of some kind. Medicare and Medicaid—public insurance programs designed to assist elderly, disabled, and low-income persons—provide coverage for an additional 8-10% of the population. Therefore, approximately 10-15% of the population has



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neither private nor public insurance coverage, and this number has been rising sharply since the late 1970s. For example, the number of nonelderly Californians without either private health insurance or eligibility for Medi-Cal or Medicare increased from 3.5 million to 5.2 million between 1970 and 1986, a 50% increase.

In California, the uninsured population is predominantly young, poor or near-poor, minority (particularly Latino), employed, and resides in the state's southern California population centers. According to the report, approximately half of the increase in California's uninsured population is due to population growth in general. The other half is due to a variety of reasons, including shifts in job bases, the growing poverty population, gaps in Medi-Cal coverage, growing health care costs, and changes in the family structure.

According to the report, the rise in the number of uninsured Californians places severe demands on the state's private and public health care delivery system, including rising burdens of uncompensated care and burdens on the county health care safety net. In response, SOR notes a number of options for the state in expanding access to health care for the uninsured, including the following:

- The state could entirely revamp its health care delivery system to impose a universal, single-payor health care delivery system in lieu of the current pluralistic system. Such a system would be supported by new tax revenues and possibly moderate premium contributions from those wishing to participate. Existing revenues supporting current public health care programs would be rolled over into the new system.

- The state could expand access to private health insurance by mandating or providing incentives to businesses and individuals to provide and maintain basic health insurance coverage.

- The state could mandate that employers over a certain size provide minimum benefits to full-time employees and possibly their dependents.

- The state could impose a "play or pay" option, under which employers over a certain size would be required to either provide proscribed minimum benefits to employees (and possibly their dependents) or pay an in lieu payroll tax to the state which the state would use to purchase health care services.

- The state could establish one or more voluntary coverage pools targeted at individuals or small groups.

- Either in conjunction with proposals for expanding coverage or independently, the state could enact cost-contain-

ment measures to bring the cost of health insurance down to enable more widespread enrollment in group and individual plans.

- The state could expand Medi-Cal coverage to groups currently ineligible.

According to SOR, funding for expanding access to health care could be derived from a number of sources, including a payroll tax paid by employers and/or employees; unemployment insurance tax surcharge; sales tax augmentation; limits on tax deductibility of health insurance premiums; income tax check-off; increased excise or use taxes on products or activities that contribute to uncompensated care costs, such as alcohol, tobacco, and firearms; and the reduction of Medi-Cal benefits.

June 1990 Ballot: Analysis of Propositions (March 1990). This report summarizes the key provisions, policy impacts, fiscal impacts, background, support/opposition arguments, and legislative history of the propositions facing the California electorate on the June 1990 ballot. [Note: the CRLR editors have inserted information on the outcome of the June election.] SOR summarized the key provisions of the propositions as follows:

- Proposition 107: Housing and Homeless Bond Act of 1990. This proposition, which was also successful on the June ballot, authorizes the state to issue up to \$150 million in general obligation bonds to be used by the Department of Housing and Community Development and the California Housing and Finance Agency to support housing programs for first-time home buyers, renters, and homeless persons.

- Proposition 108: Passenger Rail and Clean Air Bond Act of 1990. This measure, which was successful, authorizes the state to issue up to \$1 billion in general obligation bonds to pay for rail transportation projects. The measure does not assign specific dollar amounts to individual projects. Instead, the legislature must appropriate the money for projects through subsequent legislation. The money must be used for rail capital facilities, including rolling stock, and not for operating subsidies. The measure identifies routes along which projects could be funded, although the legislature could add other routes by statute.

- Proposition 109: Governor's Review of Legislation/ Legislative Deadlines Legislative Constitutional Amendment. Successful on the June ballot, this constitutional amendment extends from 12 to 29 days the length of time the Governor has to review legislation passed during the first calendar year of a legislative session. This measure does

not apply to reapportionment measures.

- Proposition 110: Property Tax Exemption for Severely Disabled Persons Legislative Constitutional Amendment. Also successful, Proposition 110 provides that when a single-family home or a multi-residential unit is modified to create easier access for severely disabled persons, the property will not be subject to reassessment for property tax purposes. This initiative also permits the legislature to allow severely disabled homeowners to carry over the Proposition 13 base year value of a principal dwelling to a replacement dwelling of equal or lesser value, within the same county.

- Proposition 111: The Traffic Congestion Relief and Spending Act of 1990 Legislative Constitutional Amendment. This initiative, which was successful, modifies certain provisions of the state and local appropriations limits. It will have four primary impacts: (1) the growth factors of the state and local appropriations limits are revised; (2) appropriations from revenues derived from specified sources are no longer subject to the appropriations limit; (3) appropriations for specified purposes are no longer subject to the limit; and (4) the minimum school funding guarantee established by Proposition 98 of 1988 is revised.

- Proposition 112: Government Ethics Legislative Constitutional Amendment. Successful on the June ballot, this measure amends the California Constitution to enact comprehensive ethics provisions affecting members of the legislature, the Governor, and other elected state officers. The measure bans honoraria; limits receipt of gifts; limits the sources of outside earned income; requires the enactment of "revolving door" post-public office employment restrictions; limits per diem during legislative interims; establishes open meeting requirements for the legislature; creates an independent California Citizens Compensation Commission with the authority to set salary and benefits of members of the legislature and other elected state officers; and requires the President pro Tempore of the Senate and the Speaker of the Assembly to report to their respective houses regarding institutional goals and objectives.

- Proposition 113: Practice of Chiropractic Legislative Initiative Amendment. This measure, which was also successful, increases the fines for violations of the Chiropractic Act. Minimum fines jump from \$50 to \$100; the maximum fines increase from \$200 to \$750 and imprisonment from 90 days to six months. This measure also pro-



vides that annual renewal of licenses is based on the month of the birth of the licensee, rather than on January 1 of each year.

-Proposition 114: Murder of a Peace Officer, Criminal Penalties, Special Circumstance, Peace Officer Definition Legislative Initiative Amendment. Successful on the June ballot, Proposition 114 updates and clarifies current state constitutional provisions regarding the murder of peace officers and adds circumstances in which the death penalty may be imposed for such murders.

-Proposition 115: Crime Victims' Justice Reform Act Initiative Constitutional Amendment and Statute. This controversial initiative, which was successful, seeks to bring about major constitutional and statutory reforms regarding criminal and juvenile justice cases in our state by adopting procedures in line with the federal system. Opponents of the measure filed a lawsuit, *Raven v. Deukmejian*, No. A049993 (First District Court of Appeal), the week after the June 5 election. The action alleges that Proposition 115 is unconstitutional as violative of the single subject rule in Article I, section 8(D) of the California Constitution.

-Proposition 116: Rail Transportation Bond Act Initiative Statute. This measure, which was successful, authorizes the state to issue up to \$1,990 million in general obligation bonds to pay mostly for rail transportation projects. The money will be given to CalTrans or local transportation authorities, and may be used for right-of-way, stations, rolling stock, grade separations, and other specified rail capital improvements.

-Proposition 117: California Wildlife Protection Act of 1990 Initiative Statute. This measure, successful on the June ballot, lists the mountain lion as a protected species and prohibits the sale, possession, or sport hunting of the mountain lion. The hunting ban may be repealed only with the approval of four-fifths of the legislature.

This measure also creates the Habitat Conservation Fund, to be administered by the Wildlife Conservation Board and financed through an annual appropriation of \$30 million for the next thirty years. The act establishes minimum allocations from the Fund to various agencies for acquisition of habitat for rare and endangered species, including mountain lions, deer and native oaks; creation of wildlife corridors; restoration of aquatic and riparian habitat; and wetlands acquisition and restoration. Half of the funds must be expended in

southern California and half in northern California.

-Proposition 118: The Legislative Ethics Enforcement Initiative of 1990—Initiative Constitutional Amendment and Statute. Proposition 118 would have significantly changed the existing constitutional reapportionment procedures. It would also have changed the statutes regarding ethical standards for members of the legislature and other officials, and altered the timetable for the election of one-half of California's state senators. Proposition 118 was unsuccessful on the June ballot.

-Proposition 119: The Independent Citizens Redistricting Initiative—Initiative Constitutional Amendment and Statute. Proposition 119, also unsuccessful, would have totally removed from the legislature the power to draw new district lines for the state Senate, Assembly, Board of Equalization, and Congress following each decennial census. It would also have altered the manner in which the state senators are elected after reapportionment.

-Proposition 120: New Prison Construction Bond Act of 1990. Successful on the ballot, this measure provides for a bond issue of \$450 million to provide funds to relieve overcrowding in the state's prisons and the Youth Authority facilities through new construction.

-Proposition 121: Higher Education Facilities Bond Act of 1990. This measure, also successful on the ballot, authorizes a \$450 million general obligation bond issue for higher education facilities. Funds are available to certain facilities for, among other things, the construction or improvement of classrooms, laboratories, and libraries, and for the implementation of earthquake and other health or safety improvements.

-Proposition 122: Earthquake Safety and Public Buildings Rehabilitation Bond Act of 1990. Successful in June, this measure authorizes the Treasurer to sell \$300 million in state general obligation bonds to provide funds to make state and local buildings safer from the threat of earthquakes, fire, asbestos, and other hazards.

-Proposition 123: 1990 School Facilities Bond Act. Also successful, this act authorizes the state to sell \$800 million in general obligation bonds to fund construction and renovation of elementary and secondary school facilities.

